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HOUSE BILL 21

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Justine Fox-Young

AN ACT

**RELATING TO ELECTIONS; ALLOWING ABSENTEE VOTING UP TO FORTY
DAYS BEFORE AN ELECTION; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTION OF LAW.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 1-6-5 NMSA 1978 (being Laws 1969,
Chapter 240, Section 131, as amended by Laws 2003, Chapter 355,
Section 4 and by Laws 2003, Chapter 356, Section 19 and also by
Laws 2003, Chapter 357, Section 2) is amended to read:**

**"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
MARKING AND DELIVERY OF BALLOT IN PERSON.--**

**A. The county clerk shall mark each completed
absentee ballot application with the date and time of receipt
in the clerk's office and enter the required information in the
absentee ballot register. The county clerk shall then**

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1 determine if the applicant is a voter, an absent uniformed
2 services voter or an overseas voter.

3 B. If the applicant does not have a valid
4 certificate of registration on file in the county and [he] is
5 not a federal qualified elector or if the applicant states [he]
6 that the applicant is a federal qualified elector but [his] the
7 application indicates [he] the applicant is not a federal
8 qualified elector, an absentee ballot shall not be issued and
9 the county clerk shall mark the application "rejected" and file
10 the application in a separate file from those accepted.

11 C. The county clerk shall notify in writing each
12 applicant of the fact of acceptance or rejection of [his] the
13 application and, if rejected, shall explain why the application
14 was rejected.

15 D. If the applicant has on file with the county a
16 valid certificate of registration that indicates that the
17 applicant is a voter who registered by mail without submitting
18 the required identification, the county clerk shall notify the
19 voter that [he] the voter must submit with [his] the absentee
20 ballot a copy of a current and valid photo identification,
21 utility bill, bank statement, government check, paycheck or
22 other government document that shows the name and address of
23 the applicant. The county clerk shall note on the absentee
24 ballot register and signature roster that the applicant's
25 absentee ballot must be returned with the required

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1 identification.

2 E. If the county clerk finds that the applicant is
3 a voter other than a federal qualified elector or overseas
4 voter, the county clerk shall mark the application "accepted"
5 and, beginning [~~twenty-eight~~] forty days before the election,
6 deliver an absentee ballot to the voter in the county clerk's
7 office or mail to the applicant an absentee ballot and the
8 required envelopes for use in returning the ballot. If the
9 county clerk finds that the applicant is a federal qualified
10 elector or overseas voter, the county clerk shall mark the
11 application "accepted" and beginning forty-five days before the
12 election, mail to the applicant an absentee ballot and the
13 required envelopes for use in returning the ballot. Acceptance
14 of an application of a federal qualified elector constitutes
15 registration for the election in which the ballot is to be
16 cast. Acceptance of an application from an overseas voter who
17 is not an absent uniformed services voter constitutes a request
18 for changing information on the certificate of registration of
19 any such voter. An absent voter shall not be permitted to
20 change [~~his~~] party affiliation during those periods when change
21 of party affiliation is prohibited by the Election Code. Upon
22 delivery of an absentee ballot to a voter in the county clerk's
23 office or mailing of an absentee ballot to an applicant who is
24 a voter, an appropriate designation shall be made on the
25 signature line of the signature roster next to the name of the

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1 voter who has been provided or mailed an absentee ballot.

2 F. If an application for an absentee ballot is
3 delivered in person to the county clerk and is accepted, the
4 county clerk shall provide the voter an absentee ballot and it
5 shall be marked by the applicant in a voting booth of a type
6 prescribed by the secretary of state, sealed in the proper
7 envelopes and otherwise properly executed and returned to the
8 county clerk or ~~[his]~~ the county clerk's authorized
9 representative before the voter leaves the office of the county
10 clerk. The act of marking the absentee ballot in the office of
11 the county clerk shall be a convenience to the voter in the
12 delivery of the absentee ballot and does not make the office of
13 the county clerk a polling place subject to the requirements of
14 a polling place in the Election Code other than is provided in
15 this subsection. It shall be unlawful to solicit votes,
16 display or otherwise make accessible any posters, signs or
17 other forms of campaign literature whatsoever in the clerk's
18 office. Absentee ballots may be marked in person at the county
19 clerk's office during the regular hours and days of business
20 beginning on the ~~[twenty-eighth]~~ fortieth day preceding the
21 election and from 10:00 a.m. to 6:00 p.m. on the Saturday
22 immediately prior to the date of the election. In marking the
23 absentee ballot, the voter, pursuant to the provisions of
24 Section 1-12-15 NMSA 1978, may be assisted by one person of the
25 voter's choice.

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1 G. Commencing on the third Saturday prior to an
2 election, an absent voter may vote in person, on an electronic
3 voting machine at an alternate location established by the
4 county clerk. In class A counties with more than two hundred
5 thousand registered voters, the county clerk shall establish
6 [~~not less~~] no fewer than twelve alternate voting locations as a
7 convenience to the voters. For class A counties with two
8 hundred thousand registered voters or [~~less~~] fewer, the county
9 clerk shall establish [~~not less~~] no fewer than four alternate
10 voting locations. In non-class A counties with more than ten
11 thousand registered voters, the county clerk shall establish at
12 least one alternate voting location. In non-class A counties
13 with ten thousand registered voters or [~~less~~] fewer, early
14 voting shall be conducted in the office of the county clerk or
15 at such alternative locations as may be designated by the
16 county clerk. Absentee voting may be done at an alternate
17 location from 12:00 p.m. to 8:00 p.m., Tuesday through Friday,
18 and 10:00 a.m. to 6:00 p.m. Saturday through the Saturday
19 immediately prior to the election. The county clerk shall
20 ensure that procedures established for processing an absent
21 voter application and for voting by absentee ballot are
22 complied with at each alternate location.

23 H. Absentee ballots shall be airmailed or, if so
24 requested, electronically transmitted to applicants temporarily
25 domiciled inside or outside the continental limits of the

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1 United States not later than on the [~~Thursday~~] Friday
2 immediately prior to the date of the election.

3 I. An absentee ballot shall not be delivered or
4 mailed by the county clerk to any person other than the
5 applicant for such ballot.

6 [~~J. The county clerk shall accept and process, with
7 respect to a primary or general election for any federal
8 office, any otherwise valid voter registration application from
9 an absent uniformed services voter or overseas voter if the
10 application is received not less than thirty days before the
11 election. The county clerk shall also accept and process
12 federal write-in absentee ballots from overseas voters in
13 general elections for federal offices in accordance with the
14 provisions of Section 103 of the federal Uniformed and Overseas
15 Citizens Absentee Voting Act.~~]

16 ~~K.]~~ J. The secretary of state and each county clerk
17 shall make reasonable efforts to publicize and inform voters of
18 the times and locations for absentee voting. "

19 Section 2. Section 1-6-6 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 132, as amended by Laws 2003, Chapter 356,
21 Section 21 and by Laws 2003, Chapter 357, Section 3) is amended
22 to read:

23 "1-6-6. ABSENTEE BALLOT REGISTER. --

24 A. For each election, the county clerk shall keep
25 an "absentee ballot register", in which he shall enter:

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- 1 (1) the name and address of each absentee
2 ballot applicant;
- 3 (2) the date and time of receipt of the
4 application;
- 5 (3) whether the application was accepted or
6 rejected;
- 7 (4) the date of issue of an absentee ballot in
8 the county clerk's office or at an alternate location or the
9 mailing of an absentee ballot to the applicant;
- 10 (5) the applicant's precinct;
- 11 (6) whether the applicant is a voter, a
12 federal voter, a federal qualified elector or an overseas
13 voter;
- 14 (7) whether the voter is required to submit
15 identification pursuant to Section 1-6-5 NMSA 1978; and
- 16 (8) the date and time the completed absentee
17 ballot was received from the applicant by the county clerk or
18 the absent voter voted early in person in the county clerk's
19 office or at an alternate location.

20 B. Within twenty-four hours after receipt of a
21 voter's application for an absentee ballot, the county clerk
22 shall mail either the ballot, if it is within [~~twenty-eight~~
23 forty days of election day, or a notice of rejection to the
24 applicant.

25 C. The absentee ballot register is a public record

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1 open to public inspection in the county clerk's office during
2 regular office hours. The county clerk shall have an updated
3 absentee ballot register available for public inspection Monday
4 through Friday during regular office hours.

5 D. The county clerk shall deliver to the absent
6 voter precinct on election day a complete list of all absentee
7 ballot applicants and early voters with applicable information
8 shown in the absentee ballot register for each applicant and
9 early voter up to 6:00 p.m. on the Saturday preceding the
10 election. The county clerk shall deliver a signature roster
11 containing the same information as the lists to the absent
12 voter precinct board.

13 E. The county clerk shall transmit to the secretary
14 of state and to the county chairman of each of the major
15 political parties in the county a complete copy of entries made
16 in the absentee ballot register. Such transmissions shall be
17 made once each week beginning four weeks immediately prior to
18 the election. A final copy shall be transmitted on the
19 Saturday immediately following the election.

20 F. If the county clerk has available the technology
21 to do so, at the request of a candidate or chair of a political
22 party of the county, the county clerk shall electronically
23 transmit to the candidate or chair via the internet the
24 information, when updated, on the absentee ballot register
25 indicating voters who have requested absentee ballots, returned

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their absentee ballots or voted early in person. "